

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SENAD METOVIC,)	CASE NO. 1:11 CV 2490
)	
Petitioner,)	JUDGE BENITA Y. PEARSON
)	
v.)	MAGISTRATE JUDGE
)	WILLIAM H. BAUGHMAN, JR.
DANIEL C. McCLELLAND, <i>et al.</i> ,)	
)	
Respondents.)	<u>REPORT & RECOMMENDATION</u>

Before me by referral¹ in this matter involving a petition by Senad Metovic for a writ of habeas corpus under 28 U.S.C. § 2241² is a motion by the federal respondents to dismiss the petition as moot.³ For the reasons that follow, I recommend granting the motion.

Metovic, a citizen of Montenegro, filed the petition while detained pending receipt by the Government of travel documents from Montenegro needed for Metovic's removal from the United States. In a non-document order entered on June 20, 2012, I directed the federal respondents to advise the Court of the current status of negotiations with the Government of Montenegro concerning the travel documents. By the present motion, the respondents notified the Court that Metovic has been released from detention and placed on an order of supervision.

¹ The matter was referred to me pursuant to Local Rule 72.2 by United States Magistrate Judge Benita Y. Pearson in a non-document order entered January 26, 2012.

² ECF # 1.

³ ECF # 7.

As the respondents point out, Metovic's release from detention by U.S. Immigration and Customs Enforcement means that no action remains to be taken by this Court as to the petition for a writ of habeas corpus, thus making the matter moot.⁴ It is well-settled that federal courts lack jurisdiction to decide questions made moot by reason of intervening events.⁵ Thus, where a party obtains the relief sought subsequent to initiating an action for that relief, the matter is moot, and the suit must be dismissed under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction.⁶

Accordingly, in view of the fact that Metovic has been released from detention, and upon a review of the respondents' motion in light of relevant case authority, I recommend that Metovic's petition for a writ of habeas corpus be dismissed as moot. However, because Metovic's ordered removal from the United States has not yet occurred, and thus Metovic may conceivably be ordered detained again, I do not recommend that the dismissal be with prejudice as sought by the federal respondents.

Dated: July 11, 2012

s/ William H. Baughman, Jr.
United States Magistrate Judge

⁴ *Id.* at 2.

⁵ *Am. Civil Liberties Union of Ohio v. Taft*, 385 F.3d 641, 646 (6th Cir. 2004).

⁶ *McPherson v. Michigan High School Athletic Assn.*, 119 F.3d 453, 458 (6th Cir. 1997).

Objections

Any objections to this Report and Recommendation must be filed with the Clerk of Courts within fourteen (14) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the District Court's order.⁷

⁷ See, *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). See also, *Thomas v. Arn*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986).